

13.10.12



Reply To
Attn Of: HW-113

NOV 14 1989

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

C.T. Corporation System
Registered Agent for:
Union Pacific Railroad
300 North 6th Street
Boise, Idaho 83701

Re: CERCLA Information Request;
Bunker Hill Superfund Site

Dear Sirs:

I am writing with respect to the Bunker Hill Superfund site in northern Idaho, at which the Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances. In September 1983, this site was listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq. (CERCLA).

The purpose of this letter is to apprise you of EPA's Superfund activities at the Bunker Hill site, and to request information regarding Union Pacific Railroad's involvement at this site. EPA is also currently requiring that a salvage and decontamination plan for the Bunker Hill metallurgical complex at the site be developed by the current and former Bunker Hill facility owners and requests your assistance and cooperation as set forth below. Lastly, EPA invites you to participate in ongoing mediation negotiations between EPA and the Bunker Hill Potentially Responsible Parties (PRPs) to develop and implement appropriate response actions.

Bunker Hill Superfund Site Investigation and Cleanup

Since 1987, EPA has been overseeing the Bunker Hill Superfund site Remedial Investigation and Feasibility Study (RI/FS), which has been divided into two pieces. Gulf Resources & Chemical Corporation, a former owner and operator of the Bunker Hill facility, is conducting the RI/FS for the non-residential areas of the site, while the State of Idaho is performing the residential area RI/FS. Both the residential and non-residential area RI/FSs are expected to be completed by 1992, following which one or more Record of Decisions (RODs) will be prepared for remedial action at the site. In addition, EPA has undertaken two separate removal actions at the site, in 1986 to remove and

USEPA SF



1184777

replace contaminated soils in public areas, and the ongoing 1989 removal and replacement of contaminated soils in residential yards at homes with pregnant women or with children three years of age and younger.

Because of the length of time necessary to complete the RI/FSSs, EPA has decided to enter into negotiations with potentially responsible parties for cleanup of certain other portions of the Bunker Hill site where there is sufficient information to base cleanup decisions prior to completion of the RI/FSSs for the entire site. At present, EPA, the Idaho Department of Health and Welfare, and Gulf Resources & Chemical Corporation are discussing such cleanup activities with the assistance of the Mediation Institute, a group of professional mediators. The first subject being considered is the revegetation of the barren hillsides in the area. If this first mediation negotiation is successful, negotiations to conduct certain other remedial activities prior to the completion of the RI/FSSs for the entire site may be considered by EPA.

Site Salvage and Decontamination Procedures

EPA has recently issued a CERCLA Section 106 Administrative Order to the current and former Bunker Hill facility owners regarding ongoing releases of hazardous substances and contaminants from the site. In addition to ordering the stabilization and containment of hazardous substances and materials located at the site, EPA has prohibited all salvage and demolition activities until EPA approves a monitoring and decontamination plan required by paragraph 47 of the Order, which is enclosed for your reference.

Although the Order is not specifically applicable to Union Pacific Railroad at this time, EPA requests that Union Pacific refrain from salvaging or shipping any contaminated railroad ties and rails or other materials and equipment at or from the Bunker Hill site until a decontamination plan satisfactory to EPA has been developed. EPA is concerned about the release or threat of release of hazardous substances from such salvage activities as well as the subsequent sale or distribution of such materials. EPA is available to answer any questions you may have regarding the development and implementation of such a decontamination plan. Please contact EPA prior to performing any further salvage activities along the Union Pacific railroad property within the Bunker Hill site.

Request For Information

EPA is also in the process of identifying all PRPs at the Bunker Hill site to ensure a voluntary and full participatory site cleanup. Attached to this letter is a list of the PRPs which EPA has named to date, as well as those companies for which

EPA has requested additional information and/or notified of the mediation negotiations. EPA is evaluating all owners and operators of the Bunker Hill facility as well as the major upstream dischargers of mine tailings which may have contaminated portions of the Bunker Hill site.

Responsible parties under Section 107(a) of CERCLA include the current and past owners and operators of the facility or site, persons who currently lease property at the site or who have leased property at the site in the past, and persons who generated hazardous substances or who were involved in the transport, treatment, or disposal of such substances at the site. 42 U.S.C. § 9607(a)(1)-(4). Under CERCLA, any cost incurred by the government in responding to a release or threatened release of hazardous substances at the site, including the investigations, planning, studies and cleanup, is the liability of the responsible parties. Liability under Section 107 of CERCLA is strict, joint, and several for all responsible parties.

Under the provisions of Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), as amended, and Section 3007 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, as amended, EPA has the authority to require any person who has or may have information relevant to the following to furnish such information: (1) the identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at the facility; (2) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility; and (3) information relating to the ability of a person to pay for or perform a cleanup.

The "site" as used in this letter refers to the term "facility" as defined as "any site or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located. . . ." 42 U.S.C. § 9601(9). The Bunker Hill site encompasses approximately 21 square miles in the Silver Valley of northern Idaho as depicted on the enclosed map. For purposes of this information request, please refer to this map when asked to provide information about the Bunker Hill Superfund site. The terms "hazardous substances" and "pollutants or contaminants" are defined in Sections 101(14) and 101(33), respectively.

Pursuant to the EPA's statutory authority contained in Section 104(e) of CERCLA and Section 3007 of RCRA, you are hereby requested to submit information in response to the questions listed below. When responding to these questions, please include all available information of past practices and procedures as well as those currently in use:

1. Please list your current business or mailing address for any facility you have owned, leased or operated within the Bunker Hill Superfund site. Please describe how long each facility has been in operation at its current location and any previous locations. This description should include a description of the location of all railroad tracks and other areas you have owned, leased or operated within the Bunker Hill Superfund Site. Please list all prior owners, lessors and operators of such facilities.
2. Describe the ownership of your company or business, including but not limited to whether it is a sole proprietorship, limited partnership, corporation or other form of legal organization or entity. Provide the date when you began operating your business including the dates of any organizational changes such as incorporation. Provide the names and addresses of any subsidiaries or companies in which your business has an interest, and briefly describe the activities in which they do business. List the owners, directors, and officers of your company or corporation and describe any changes in organization or ownership since you started operating within the Bunker Hill site.
3. Please provide all information and records you possess or have in your control regarding the removal, salvage or sale of any railroad ties, rails or any other materials or equipment from property you have owned, operated, or leased at the Bunker Hill site. Include a description of the amount of and location where such materials were removed from the Bunker Hill site. Please provide all information and records pertaining to the removal and distribution of any railroad ties, rails, or any other materials or equipment owned or controlled by Union Pacific from the site, including who they were sold or sent to and where they were taken or stored. Please describe the method of transportation, and whether any decontamination procedures or protective coverings were used prior to, during, or after such transportation.
4. For all railroad ties, rails, and other materials or equipment which may have been removed or salvaged from the Bunker Hill site and sold or scrapped by Union Pacific or a Union Pacific contractor, please provide all records, sales invoices and receipts which indicate the names and addresses of the purchaser(s). If contractors were used, please provide the names and addresses of such contractors.
5. Please provide a description of the amounts of ore and metals, including lead, arsenic, cadmium, copper, zinc, mercury and silver you transported to, from, or through the Bunker Hill site since Union Pacific began operations at the site. Please provide a list of companies or entities for

whom you transported any of such materials to, from, or through the site. Include in this list the names and addresses of such companies or entities and the amounts of ore or metals you transported for each. Also, please provide the method by which you transported such materials and a description of any measures you took to prevent spillage of such materials during transportation.

6. Provide the name of all of your liability insurance carriers and copies of any liability insurance policies that may provide liability coverage for damages resulting from releases of hazardous substances and/or wastes, pollutants, or contaminants. If your insurance policies are voluminous, or if you prefer not to submit them at this time but agree to submit the policies or make them available to EPA at a later date, you may provide EPA with a list of such insurance policies along with the name of the insurer, and the dates, extent, and amounts of such coverage.
7. Please provide any other documents, records, correspondence, or other information regarding the use, treatment, storage, and disposal of the previously identified materials at your facilities.
8. Provide a list and the current or last known address and telephone numbers of all persons or companies which may have knowledge relating to any of the above questions.

Your written response to these questions must be sent to EPA within twenty-one (21) calendar days of your receipt of this letter. Your response should include all information and records or documents you have related to the above questions. If any records are not in your possession, provide the current location and custodian of such records. If the information you possess is voluminous, you may respond within the 21-day period as to the availability of all related records and provide a written description of the types of information available. Specifically, describe the types of records that were maintained by you or your company with regard to the above questions, including the date of the records, and their current custodian.

EPA regulations governing confidentiality of business information are set forth in Part 2, Subpart B of Title 40 of the Code of Federal Regulations, 41 Federal Register 36901-36924 (September 1, 1976), as amended by 43 Fed. Reg. 39997 (March 17, 1983) and 50 Fed. Reg. 71771 (December 18, 1985). For any portion of the information submitted which is entitled to confidential treatment, a confidentiality claim may be asserted in accordance with Section 104(e)(7) Of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 CFR Section 2.203(b). If EPA determines that the information so designated meets the criteria set forth in Section 104(e)(7) of CERCLA and 40 CFR Section 2.203, the

information will be disclosed to the extent, and by means of the procedures, specified in 40 CFR Part 2, Subpart B. EPA will construe the failure to furnish a confidentiality claim with your response to this letter as a waiver of the claim, and information may be made available to the public by EPA without further notice.

Please respond to us within the time frame indicated above. Your written response should be sent to:

Sally Martyn
U.S. Environmental Protection Agency
Superfund Branch, Mail Stop: HW-113
1200 Sixth Avenue
Seattle, Washington 98101

Bunker Hill Superfund Site Mediation

EPA is also interested in learning whether you would like to participate in the ongoing Bunker Hill Superfund site mediation negotiations currently involving EPA, Idaho, and Gulf Resources & Chemical Corporation. EPA has recently invited to the mediation companies and smelter ore suppliers identified on the attached lists. Although not currently named as PRPs, such parties' involvement at the site is being evaluated by EPA. Enclosed are copies of the Mediation Agreement and draft Mediation Groundrules developed by EPA, IDHW, Gulf, and the Mediation Institute. The mediation negotiations are currently suspended, however, as Gulf has requested sixty days following EPA's issuance of the additional PRP notice letters, CERCLA 104(e) requests for information to the upstream mining companies, and mediation notice letters to the ore suppliers, to decide whether to continue the mediation.

EPA believes that it is in the best interests of all parties associated with the Bunker Hill Superfund site to develop a unified and voluntary approach to settlement such as may be possible through mediation. Participation in the mediation will also provide an opportunity for early involvement in future remediation and cleanup activities and decisions at the Bunker Hill site. This is in addition to the formal CERCLA public comment periods for the Bunker Hill RI/FSSs, RODs, or any judicial consent decrees. Furthermore, any agreements for remedial action will be embodied in formally executed judicial consent decrees with provisions for a covenant not to sue, contribution protection, and other statutory provisions as set forth in CERCLA.

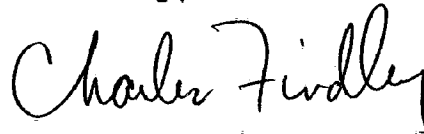
The factual and legal discussions contained in this letter are intended solely for notification and information purposes, and cannot be relied upon as a final agency position. However, this letter shall constitute formal notice of the opportunity to

participate in the Bunker Hill Superfund site mediation negotiations.

Thank you for your prompt attention to this letter. Please provide your written response to EPA's request for information within twenty-one days as set forth above and please notify EPA whether you wish to participate in the Bunker Hill mediation negotiations. If you have any technical questions, please contact either Sally Martyn at (206) 442-2102 or Kevin Oates at (206) 442-6524. Legal questions should be addressed to Allan Bakalian, Assistant Regional Counsel at (206) 442-1789.

I look forward to hearing from you shortly.

Sincerely,



Charles E. Findley, Director
Hazardous Waste Division

Enclosure

cc: Colleen A. Lamont, UPRR
Cheryl Koshuta, IDHW
Curt Fransen, Esq., IDHW
Jerry Cobb, PHHD
Peter Mounsey, USDOJ
Bunker Hill PRPs
Bunker Hill upstream mining companies
Bunker Hill ore suppliers